

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-1013V

Filed: March 16, 2015

Unpublished

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|---------------------|---|-------------------------------------|
| CATHERINE SMITH, | * | |
| | * | |
| Petitioner, | * | Ruling on Entitlement; Concession; |
| | * | Trivalent Influenza or Flu Vaccine; |
| | * | Shoulder Injury Related to Vaccine |
| SECRETARY OF HEALTH | * | Administration; SIRVA; Special |
| AND HUMAN SERVICES, | * | Processing Unit |
| | * | |
| Respondent. | * | |
| | * | |

Michael G. McLaren, Esq., Black McLaren Jones Ryland & Griffee, P.C., Memphis, TN for petitioner.

Julia W. McInerny, Esq., U.S. Department of Justice, Washington, DC for respondent.

RULING ON ENTITLEMENT¹

Vowell, Chief Special Master:

On October 20, 2014, Catherine Smith filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² [the “Vaccine Act” or “Program”]. Petitioner alleges that she suffered a shoulder injury related to vaccine administration [“SIRVA”] caused by the trivalent influenza vaccination she received on October 5, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 16, 2015, respondent filed her Rule 4(c) report in which she concedes “that compensation is appropriate in this case.” Respondent’s Rule 4(c) Report at 1. Specifically, respondent “believes that the alleged injury is consistent with SIRVA.” *Id.* at 4. Respondent further agrees that petitioner “has satisfied all legal prerequisites for

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

compensation under the Vaccine Act” to include proof that her injury lasted for more than six months. *Id.*

In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.

s/Denise K. Vowell
Denise K. Vowell
Chief Special Master